IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)	
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Barbara A. Christensen et al.)	Examiner H. Vy
)	
Serial No. 10/848,758)	Group Art Unit 2169
)	
Filing Date: 05/19/04)	
)	Docket No. 33012/386/101
)	
For: METHOD AND APPARATUS)	**SECOND APPEAL BRIEF**
FOR INFORMATIONAL)	
COMPARISONS OF MULTIPLE)	
DATASETS IN A)	
JAVASCRIPT ENVIRONMENT)	

APPELLANT'S SECOND APPEAL BRIEF
FILED UNDER 37 C.F.R. § 41.37

Commissioner for Patents
P.O. Box 1450
Alexandria, VA   22313-1450

Dear Sir:

CERTIFICATE UNDER 37 C.F.R. 1.8:   I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, Alexandria VA, 22313-1450 on this _____th_____ day of ___December___, 20 08 _____.

By _____
                Carolyn I. Erickson

This second appeal brief is being filed in triplicate within

sixty days of the Second Notice of Appeal filed October 13, 2008.

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Permission is hereby granted to charge or credit deposit account number 14-0620 for any errors in fee calculation. Appellants request this Appeal Brief be made of record and fully considered.

REAL PARTY IN INTEREST

The Real Party in interest is:

Unisys Corporation

Township Line and Union Meeting Roads

Blue Bell, Pennsylvania 19424

being the assignee of the entire right, title, and interest by all inventors, by way of assignment documents filed at Reel 015754, frame 0722, in the United States Patent and Trademark Office.

RELATED APPEALS AND INTERFERENCES

There are no known pending Appeals and/or Interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal. Therefore, there are no decisions to be placed in the attached Related Proceedings Appendix.

TABLE OF CONTENTS

STATUS OF CLAIMS

The subject patent application was filed on May 19, 2004 containing claims 1-21. On November 30, 2006, the Examiner mailed an initial official action rejecting all pending claims. In accordance with the amendment filed February 27, 2007, claims 1, 7, 11, 12, 17, and 21 were amended. On May 31, 2007, the Examiner mailed a Final Office Action finally rejecting all pending claims. Applicants filed a first Notice of Appeal from that final rejection without filing an amendment after final. Subsequently, Applicants filed a first Appeal Brief, a Supplemental Appeal Brief, and a Second Supplemental Appeal Brief.

In response to Applicants' Second Supplemental Appeal Brief, the subject application was removed from appeal and a non-final office action was mailed under the name but not the signature of SPE Tim T. Vo. The pending non-final office action mailed July 11, 2008 states that "Applicant's arguments....have been considered and are persuasive". Therefore, the Examiner apparently conducted a new search to cite and apply U.S. Patent Application Publication Number 2002/0023261, published in the name of Goodwin et al. (hereinafter referred to as "Goodwin") to support his rejection of claims 1-21, being all pending claims.

However, Goodwin is clearly less pertinent than the prior art from which Applicants had previously appealed. Thus, Applicants have renewed their appeal. Therefore, appealed claims 1-21, being all pending claims, stand finally rejected and are presented in the Claims Appendix, hereto attached, in the form following entry of the amendment filed February 27, 2007. No pending claim has ever been found to contain allowable subject matter.

There remains a provisional obviousness-type double patenting rejection, which is not yet ripe. Applicants will deal with this issue by way of terminal disclaimer or other appropriate measure after the matter becomes ripe.

Notwithstanding this indication of pending provisional obviousness-type double patenting rejections contained within Applicants' first Appeal Brief filed November 20, 2007 and first Supplemental Appeal Brief filed January 10, 2008, SPE Don Wong mailed a second Notification of Non-Compliant Appeal Brief on March 10, 2008 alleging:

> The appeal Brief dated 01/14/2008 is missing the ground of rejection under "provisional obvious-type (sic) double patenting".

In response thereto, Applicants respectfully submit that the issue remains "provisional" and, as such, is still not ripe. Therefore, it is not and cannot be a "ground of rejection presented for review" under 37 C.F.R. 41.37(c)(1)(vi). Furthermore, any

corresponding "argument" of this issue under 37 C.F.R. 41.37(c)(1)(vii) is at least legally irrelevant.

STATUS OF THE AMENDMENTS

The amendment filed February 27, 2007 was entered as a matter of right. No amendment after final under 37 C.F.R. 1.116 was filed in response to the final office action mailed May 31, 2007. Furthermore, no amendment has been filed in response to the pending non-final office action mailed July 11, 2008.

SUMMARY OF CLAIMED SUBJECT MATTER [1]

The present invention generally relates to legacy data base management systems and more particularly relates to enhancements for providing JavaScript access to multiple dataset comparison functions offered by such legacy data base management systems[2]. Such commercial systems have ben in general use for more than 20 years. One of the most successful data base management systems is available from Unisys Corporation and is called the Classic MAPPER® data base management system[3].

In order to permit any such access, the present invention must first provide a user interface, called a gateway, which translates transaction data transferred from the user over the Internet in HTML format into a format from which data base management system commands and inputs may be generated[4]. To make access to a proprietary legacy data base by Internet users practical, a sophisticated security system is required to prevent intentional or inadvertent unauthorized access to the sensitive data of an organization[5].

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[1] The references to the specification and drawings provided herein are only exemplary and are not deemed to be limiting. The purpose of the references is to enable the Board to more quickly determine where the claimed subject matter is described within the present application.
[2] See Specification at page 1, line 21, through page 2, line 2.
[3] See Specification at page 2, lines 3-5.
[4] See Specification at page 6, lines 5-8.
[5] See Specification at page 6, lines 13-15.

In accordance with the preferred mode of the present invention, the user can access the underlying MAPPER data manipulation capabilities in a JavaScript object-based programming environment. Therefore programmers knowledgeable in the practices of standard programming languages such as JavaScript can readily apply those skills to utilize the data manipulation and other capabilities derived from the underlying MAPPER engine. Each JavaScript represents a stored procedure of varying degrees of complexity that can be called from various development and application software within the DACS BISNET product suite[6].

In the preferred implementation, the JavaScript parser and objects are integrated into the MAPPER engine to support JavaScript stored procedures. The integrated JavaScript parser interprets and executes JavaScript stored procedures, which utilize custom JavaScript objects. These custom capabilities are in an object-based, paradigm for dataset manipulation and analysis purposes. Additional custom JavaScript objects are also provided to support the more complex MAPPER core engine "power" function analysis capabilities. JavaScript stored procedures are an alternative to MAPPER run-script; input and output arguments can be passed, and a resulting dataset can be returned to the caller[7].

A key to making this process efficient is the technique for "parameterization" of the underlying MAPPER "power" commands. In

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[6]See Specification at page 10, lines 1-7.
[7]See Specification at page 10, lines 9-16.

order to leverage the more complex MAPPER core engine "power" function analysis capabilities, it is necessary for the programmer to supply a set of arguments. The arguments are positional and the number can range from just a few to many dozens. As the number of arguments increases, the burden of programming them can become unmanageable[8].

As originally conceived, the MAPPER engine power functions were invoked via the procedural BIS script language. This interface is satisfactory for programming simple sets of arguments, although it has the inherent disadvantage of requiring intricate knowledge of the proprietary BIS script language syntax. This syntax is very efficient, but at the tradeoff of being cryptic and therefore error prone and requiring specialized training. As the number of arguments increases, the programming task becomes daunting[9].

To compliment the JavaScript Dataset object, which represents a physical MAPPER database table, a suite of Parameter objects is provided to allow programming the numerous combinations of arguments that parameterize the processing performed by MAPPER core engine power function analysis functions. A separate JavaScript Parameter object is provided for each of the MAPPER core engine power functions. Each Parameter object contains custom properties,

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[8]See Specification at page 10, lines 17-22.
[9]See Specification at page 11, lines 1-6.

methods, and compound objects that conform to the programming requirements of a specific power function[10].

The system of the preferred mode provides a method and apparatus for comparing information across multiple datasets in a Javascript environment. The Dataset compareDatasets() power function searches two dataset columns that match the specified compare item criteria. This function performs a character-to-character comparison of specified columns in the two datasets. This means that an application programmer can utilize the compareDatasets() power functions's capabilities provided by the MAPPER engine in terms of a standardized object-based programming language such as JavaScript to compare information from two different datasets. Previously, this MAPPER power function was only available using the proprietary MAPPER run script procedural language.[11]

Fig. 1 is a pictorial diagram of hardware suite 10 of the preferred embodiment of the present invention[12]. Fig. 2 is a detailed flow diagram showing integration of JavaScript with the MAPPER engine[13]. Fig. 15 shows the contents of the target and issuing datasets and the location of the first non-matching occurrence. To find the next non-matching occurrence for the above example, the oComp.resume property is changed to "rsmNextItem" or

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[10]See Specification at page 11, lines 7-13.
[11]See Specification at page 11, lines 14-22.
[12]See Specification at page 14, lines 10-11.
[13]See Specification at page 16, lines 2-3.

"rsmNextRecord". Another request is then issued in the form of c,oDs.compareDatasets(....) request$.[14]

Claim 11 is the only pending claim introducing "means-plus-function" limitations. Independent claim 11 has four such limitations which are correlated to Applicants' disclosure as follows:

a. "storing means for storing a plurality of datasets within a legacy data base[15]";

b. "requesting means responsively coupled to said storing means for requesting a comparison of said plurality of datasets via a standardized command language[16]";

c. "converting means responsively coupled to said storing means for converting said standardized command language into a legacy command language suitable to access said legacy data base"[17]; and

d. "preparing means responsively coupled to said storing means for preparing a comparison result[18]".

In accordance with the first Notification of Non-Compliant Appeal Brief mailed December 10, 2007, Applicants herewith endeavored to map claims 1, 6, 16, and 21 to "the specification by

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[14]See Specification at page 31, lines 2-5.
[15]See Fig. 1, elements 20 and 22, and specification at page 14, lines 16-17.
[16]See Fig. 1, element 12, and specification at page 14, lines 11-15.
[17]See Fig. 2, element 38, and specification at page 16, lines 3-5.
[18]See Fig. 14 and specification at page 30.

page and line number, paragraph number, and to the drawings, if any".

Claim 1:

--- element a -- see Fig. 1, elements 20 and 22, and specification at page 15, lines 16-17;

--- element b -- see Fig. 1, element 12, and specification at page 14, lines 11-15;

--- element c -- see Fig. 2, element 38 and specification at page 17, lines 3-5; and

--- element d -- see Fig. 14 and specification at page 20.

Claim 6:

--- element a -- see Fig. 1, element 12, and specification at page 14, lines 11-15;

--- element b -- see Fig. 1, elements 20 and 22, and specification at page 14, lines 16-17;

--- element c -- see Fig. 2, element 38, and specification at page 16, lines 3-5;

--- element d -- see Fig. 14 and specification at page 30;

--- element e -- see Fig. 14 and specification at page 30.

Claim 16:

--- element a -- see Fig. 1, elements 20 and 22, and specification at page 14, lines 16-17;

--- element b -- see Fig. 2, element 38, and specification at page 16, lines 3-5;

--- element c -- see Fig. 14 and specification at page 30.

Claim 21:

--- element a -- see Fig. 1, elements 20 and 22, and specification at page 14, lines 16-17;

--- element b -- see Fig. 1, element 12, and specification at page 14, lines 11-15;

--- element c -- see Fig. 2, element 38 and specification at page 16, lines 3-5;

--- element d -- see Fig. 14 and specification at page 30; and

--- element e -- see Fig. 14 and specification at page 30.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Are claims 3-4 and 8 unpatentable under 35 U.S.C. 112, second paragraph as indefinite?

2. Are claims 1-13 and 16-21 unpatentable under 35 U.S.C. 102(e) as anticipated by U.S. Patent Application Publication No. 2002/0023261, published in the name of Goodwin et al. (hereinafter referred to as "Goodwin")?

3. Are claims 14-15 unpatentable under 35 U.S.C. 103(a) as obvious over Goodwin in view of U.S. Patent No. 5,917,485, issued to Spellman et al. (hereinafter referred to as "Spellman")?

ARGUMENT

I.   Claims 3-4 and 8 are not unpatentable under 35 U.S.C. 112, second paragraph as indefinite.

Claims 3-4 and 8 have been newly rejected under 35 U.S.C. 112, second paragraph, as being indefinite. This ground of rejection should be reversed for the reasons discussed below.

Apparently, the basis underlying the Examiner's rejections is a lack of understanding of dependent claims. As stated in 37 C.F.R. 1.75©:

> One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application.

Claim 3, for example, depends from claim 2, which in turn depends from claim 1. Therefore, claim 3 contains all of the limitations of **both** claim 1 **and** claim 2.

Thus, the Examiner's findings in rejecting are incorrect as a matter of law. He states:

> Claim 3 recites the limitation "said result" in line 1. There is insufficient antecedent basis for this limitation in the claim since (sic) claim 2 recites nothing about result (claim 3 depends on claim 2).

Claim 1 is limited by "a result" (see element d). Therefore, claim 2 which depends from claim 1 is limited by the same "result". Thus, claim 3 further limits the "result" having its original antecedent basis in claim 1.

Similarly, claim 4 depends from claim 3 which depends from claim 2 which depends from claim 1. Therefore, claim 4 contains all of the limitations of claims 1-3. The "user session" further limited by claim 4 has its original antecedent basis in claim 1.

Claim 8 depends from claim 7 which depends from claim 6. Therefore, claim 8 contains all of the limitations of claims 6-7. The "generating step" further limited by claim 8, has its original antecedent basis in claim 6 (see element a).

The Examiner also objects to claim 14 for failure to define the term "MAPPER". Applicants deem that their specification provides adequate definition for the term. In particular, the Background of the Invention offers substantial material by way of definition, explanation, and availability.

II. Claims 1-13 and 16-21 are not anticipated by Goodwin.

Claims 1-13 and 16-21 have been rejected under 35 U.S.C. 102(e)[19] as being anticipated by U.S. Patent Publication 2002/0023261, published in the name of Goodwin (hereinafter referred

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[19]The Examiner apparently meant to reject these claims under 35 U.S.C. 102(b).

to as "Goodwin"). This ground of rejection should be reversed for the following reasons.

The standards for a finding of anticipation during examination are specified in MPEP 2131, which provides in part:

TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH
EVERY ELEMENT OF THE CLAIM
"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "**The identical invention must be shown in as complete detail as is contained in the ... claim.**" *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (emphasis added)

The rejection is respectfully traversed because "the identical invention" is not shown by Goodwin "in as complete detail as is contained in the claims" as is required by MPEP 2131.

The preferred mode of the present invention provides an apparatus for and method of utilizing JavaScript to request a complex comparison from a legacy data base management system. The user is thus able to evoke the powerful dataset comparison tools of the legacy data base management system without the need to understand and use the command language of the legacy data base management system. The technique requires an Internet terminal coupled via the world wide web to access a legacy data base management system having a dialog-based request format using a standardized object-based command language, such as JavaScript, rather than the proprietary command language native to the legacy

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data base management system to perform a requested complex comparison operation. The approach is particularly efficient.

Goodwin, on the other hand, discloses a software system employed within a single computer as clearly shown in Fig. 1. Paragraph [0019] explains:

> **FIG. 1** is a schematic block diagram showing a computer system in which teachings of the present invention may be embodied;

Fig. 1 is discussed in paragraphs [0043] and [0044]. This is the only hardware actually disclosed by Goodwin.

The Examiner tends to make much of the first sentence of paragraph [0045] which parenthetically mentions:

> ....a wide range of computing system configurations **can be used** to support the methods of the present invention..... (emphasis added)

This statement is legally irrelevant to the determination of patentability of Applicants' invention as disclosed and claimed, because Goodwin discloses no other operable and enabled "computing system configurations", except the single computer configuration of Fig. 1. The disclosure of Goodwin is simply limited to a single computer configuration. That one could practice the claimed "invention" of Goodwin, has little to do with the "disclosure" of Goodwin, for which it is cited as prior art.

As a result, Goodwin cannot meet any of the environmental limitations of Applicants' invention. Thus, in rejecting the pending claims, the Examiner has parsed the actual claim language

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into small pieces in an attempt to find the exact words in various and diverse portions of the Goodwin disclosure, not unlike attempting to reject a claim using a dictionary.

Secondly, Applicants' invention as disclosed and claimed is directed to comparing "pluralities" of "datasets" (or files). Applicants' Field of the Invention at page 1, lines 17-20, states:

> The present invention .... more particularly relates to enhancements for providing .... **multiple dataset comparison** functions ..... (emphasis added)

The Examiner completely ignores the limitation related to "**multiple dataset comparison**", because Goodwin does not disclose this functionality. Instead, the Examiner seeks to equate Applicants' "**multiple dataset comparison**" with simple data base queries. This is clear error of controlling law.

As clearly seen in Goodwin, there is no disclosure of Applicants' disclosed and claimed Internet-based multicomputer environment and no disclosure of Applicants' disclosed and claimed "**multiple dataset comparison**". Therefore, the Examiner's attempt to read Applicants' claims on to the disclosure of Goodwin are clearly erroneous and inconsistent with controlling law as shown below.

II.A. Claim 1 is not anticipated by Goodwin.

Claim 1, for example, has four basic elements. The first claimed element is "a legacy data base management system having a

first command language and having a plurality of datasets". The Examiner's rejection is largely incomprehensible, because the Examiner seems intent on finding the words of Applicants' claim without addressing the meaning thereof. However, it is clear that the cited "data server 332" is not the claimed "legacy data base management system" as alleged. Secondly, there are no "plurality of datasets" disclosed or mention by Goodwin. And thirdly, there is no disclosure by Goodwin of **execution** of a first command language".

The second claimed element is "a user terminal which generates a request in a standardized command language for comparing some of said plurality of datasets within said legacy data base". Instead of addressing this hardware element (i.e, "a user terminal") of Applicants' claimed invention, the Examiner impermissibly paraphrases Applicants' claimed invention as "a user session". Thus, the Examiner's rejection is clearly deficient, as a matter of law.

In making the rejection, the Examiner cites paragraph [0131] which mentions "client". Client 338 of Fig. 2, being the only actual client disclosed by Goodwin, is a piece of software residing in computer system 100 of Fig. 1. This is supported by paragraph [0020] which states:

> **FIG. 2** is a high level block diagram illustrating functional elements of one embodiment of he present invention such as may be embodied in the computer system of **FIG. 1**.

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Surely, one can distinguish between a piece of hardware and a piece of software.

The claim requires that the claimed "service request" is "for comparing some of said plurality of datasets". The Examiner actually ignores both the language and the meaning of these limitations and cites paragraph [0131] of Goodwin to perform simple "object-oriented access". Thus, these findings are legally irrelevant, because they do not address the claimed invention.

The third claimed element is "a facility located within said data base management system which parses said request in said standardized command language into a corresponding request in said first command language". Again, because Goodwin does not have the claimed "legacy data base management system", it cannot have these further limitations. Therefore, the Examiner makes a number of legally irrelevant findings.

For example, he seeks to equate the claimed "which parses" with the allegation of Goodwin that "developers" can "implement their own". Surely, one can distinguish between Applicants' disclosed and claimed "facility .... which parses" from an as yet non-existent element which could be created in the future by some unnamed "developers".

Of course, the alleged as yet non-existent "facility .... which parses" cannot be located within the alleged "legacy data base management system", as claimed, because there is no "legacy

data base management system" or "facility ..... which parses" within Goodwin. Therefore, the Examiner cites even more legally irrelevant paragraphs and software elements, which merely confuses the matter.

In addition, the Examiner again confuses the translation of a query in Goodwin, with the claimed conversion of the executable command language. This produces more findings which are legally irrelevant, because they are unrelated to the claimed invention.

The fourth claimed element is "a result produced by said legacy data base management system indicative of honoring said corresponding request". The claimed "definitions" must be "<u>a result produced by said legacy data base management system</u>". Nevertheless, the Examiner cites paragraph [0136] of Goodwin which discusses honoring of multiple queries by multiple applications. This cited material is associated with simple queries, which are not the claimed "comparison of a plurality of datasets". The Examiner's findings are legally irrelevant, because they do not disclose the claimed "result".

As a result of Goodwin having none of the four claimed elements of claim 1, the rejection of claim 1, and all claims depending therefrom, should be reversed.

II.B.   Claim 2 is not anticipated by Goodwin.

Claim 2 depends from claim 1 and further limits the claimed standardized command language. In making his rejection, the Examiner cites paragraph 0061 which parenthetically mentions what could be (but has not yet been) done by a "developer". Even if true, this does not disclose the claimed element as alleged. The rejection of claim 2 should be reversed as based upon clearly erroneous findings of fact.

II.C.   Claim 3 is not anticipated by Goodwin.

Claim 3 depends from claim 2 and further limits the claimed "result". As explained above, Goodwin does not have the claimed "result". Therefore, Goodwin cannot have these further limitations and so the Examiner makes additional irrelevant findings based upon paragraph [0061] of Goodwin "in which templates can be implemented". Again, the Examiner confuses that would perhaps could be done in the future with disclosure. The rejection of claim 3 should be reversed.

II.D.   Claim 4 is not anticipated by Goodwin.

Claim 4 depends from claim 3 and further limits the network coupling the major hardware components. As explained above, Goodwin specifically discloses a computer system (i.e., Fig. 1) which contains a single computer. Therefore, Goodwin cannot have these further limitations. Therefore, the Examiner again cites

paragraph [0045] of Goodwin which is directed to what perhaps could have (but has not been) disclosed. The rejection of claim 4 should be reversed.

II.E.   Claim 5 is not anticipated by Goodwin.

Claim 5 depends from claim 4 and further limits the organization of the claimed data base. Because the Examiner is aware that Goodwin cannot meet these limitations, the Examiner cites paragraph [0138], which he knows does not disclose the claimed elements. The cited paragraph does not even parenthetically mention "column" as claimed. The rejection of claim 5 should be reversed.

II.F.   Claim 6 is not anticipated by Goodwin.

Claim 6 is an independent method claim having five basic steps as limiting elements. The second claimed step is "transferring said request to said legacy data base management system". This transferring step does not occur in Goodwin, because in Goodwin, the conversion must be performed before transfer to the alleged legacy data base management system (see cited Figs. 3 and 9).

Thus, the third step, "converting said comparison request from said standardized command language into a legacy command language suitable for execution by said legacy data base management system" cannot occur in within the alleged legacy data base management

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system, but is perform in the "data server". As a result of Goodwin not having at least the second and third claimed elements of claim 6, the rejection of claim 6, and all claims depending therefrom, should be reversed.

II.G.   Claim 7 is not anticipated by Goodwin.

Claim 7 depends from claim 6 and is further limited by "wherein said standardized command language further comprises a language which is capable of producing a JavaScript object". Because Goodwin does not disclose this limitation, the Examiner simply ignores it, and cites material concerning what a developer could do in the future. The rejection of claim 7 should be reversed.

II.H.   Claim 8 is not anticipated by Goodwin.

Claim 8 depends from claim 7 and is further limited by "wherein said generating step is performed by a user terminal". Because Goodwin does not have the claimed "user terminal", it cannot disclose this limitation. Therefore, the Examiner simply ignores the claimed limitation and cites Goodwin, paragraph [0136], which has nothing to do with the claimed "user terminal". The rejection of claim 8 should be reversed.

II.I.   Claim 9 is not anticipated by Goodwin.

Claim 9 depends from claim 8 and is further limited by "wherein said result further comprises a JavaScript object". Because Goodwin does not disclose this limitation, the Examiner simply ignores it and again discusses what a developer could do in the future. The rejection of claim 9 should be reversed.

II.J.   Claim 10 is not anticipated by Goodwin.

Claim 10 depends from claim 9 and is further limited by "wherein said transferring step occurs via a publically accessible digital data communication network". Because Goodwin does not disclose this limitation, the Examiner simply ignores it and cites paragraph [0045] of Goodwin which is irrelevant. Goodwin does not actually disclose anything but a single computer system. The rejection of claim 10 should be reversed.

II.K.   Claim 11 is not anticipated by Goodwin.

Claim 11 contains four "means-plus-function" limitations requiring examination in accordance with MPEP 2181-2184. Clearly, this has not been done[20].

The first claimed element is "storing means for storing a plurality of datasets within a legacy data base". Though the Examiner cites four elements distributed over two figures and two

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[20]In addition to a failure to apply controlling law in the examination of claim 11, the Examiner has also apparently mislabeled the rejection as a rejection of claim 8.

full paragraphs of text from Goodwin, there is no mention of even a single "dataset", much less the claimed "plurality of datasets".

The second claimed element is "requesting means responsively coupled to said storing means for requesting a comparison of said plurality of datasets via a standardized command language". As explained above, Goodwin has no "comparison of said plurality of datasets" as claimed. Therefore, the Examiner ignores the claimed invention and cites material from Goodwin which discusses simple queries.

The third claimed element is "converting means responsively coupled to said storing means for converting said standardized command language into a legacy command language suitable to access said legacy data base". Goodwin does not mention any "command language". Therefore, the Examiner cites substantial amounts of material having nothing to do with the claimed "command language".

The fourth claimed element is "preparing means responsively coupled to said storing means for preparing a comparison result". Instead of disclosing the claimed "comparison result" from a single service request of a complex comparison, Goodwin discloses combinations of a plurality of simple queries.

Therefore, the rejection of claim 11, and all claims depending therefrom, should be reversed for the reasons stated above and for failure of the Examiner to examine the claim in the manner required by law.

II.L.   Claim 12 is not anticipated by Goodwin.

Claim 12 depends from claim 11 and further limits the claimed "standardized command language". Because Goodwin does not have the claimed "standardized command language", as explained above, Goodwin cannot have the further limitations of claim 12. Therefore, the Examiner completely ignores claim 12. The rejection of claim 12 should be reversed for failure to be examined.

II.M.   Claim 13 is not anticipated by Goodwin.

Claim 13 depends from claim 12 and further limits the claimed coupling. The Examiner has not even alleged that Goodwin discloses the limitations of claim 13. Instead, the Examiner makes legally irrelevant findings concerning a standardized command language. The rejection of claim 13 should be reversed.

II.N.   Claim 16 is not anticipated by Goodwin.

Notwithstanding the statutory, judicial, procedural, and factual differences in patentabilty of the claimed limitations between claims 1 and 16, the Examiner apparently has not felt the need to actually examine claim 16 as required by controlling law. Claim 16 has, for example, a "user session" not found in claim 1. Therefore, the rejection of claim 16, and all claims depending therefrom, should be reversed for the reasons stated above and for failure of the Examiner to examine the claim.

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II.O.   Claim 17 is not anticipated by Goodwin.

Claim 17 depends from claim 16 and further limits the claimed "standardized command language". As explained above, Goodwin does not have the claimed "standardized command language". Therefore, Goodwin cannot have these further limitations and so the Examiner makes additional irrelevant findings not related to the claimed invention. The rejection of claim 17 should be reversed.

II.P.   Claim 18 is not anticipated by Goodwin.

Claim 18 depends from claim 17 and further limits the claimed coupling network between the claimed user terminal and the claimed legacy data base management system to a **publicly accessible** network. In making his rejection, the Examiner cites paragraph 0045 which parenthetically mentions what could have been, but is not, disclosed. Goodwin only disclose a single computer system. The rejection of claim 18 should be reversed as based upon clearly erroneous findings of fact.

II.Q.   Claim 19 is not anticipated by Goodwin.

Claim 19 depends from claim 18 and further limits the claimed request. As explained above, Goodwin discusses what developers might create in the future, but that which is not currently in existence. The rejection of claim 19 should be reversed.

II.R.   Claim 20 is not anticipated by Goodwin.

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Claim 20 depends from claim 19 and further limits the claimed result. Because the Examiner is aware that Goodwin cannot meet these limitations, the Examiner cites paragraph [061] and Figs. 3-6, concerning that which developers might develop in the future. The rejection of claim 20 should be reversed.

II.S.   Claim 21 is not anticipated by Goodwin.

Notwithstanding the differences in claimed limitations[21] between claims 1 and 21, the Examiner apparently has not felt the need to actually examine claim 21 as required by controlling law. Therefore, the rejection of 21 should be reversed for failure of the Examiner to examine it.

III. Claims 14-15 are not unpatentable under 35 U.S.C. 103(a as obvious over Goodwin in view of Spellman.

Claims 14-15 have been rejected under 35 U.S.C. 103(a) as unpatentable over Goodwin in view of Spellman. This ground of rejection is respectfully traversed for failure of the Examiner to present a *prima facie* case of obviousness.

To make a *prima facie* case of obviousness, MPEP 2143 requires the Examiner to provide evidence and argument showing: 1)motivation to make the alleged combination; 2)reasonable likelihood of success of the alleged combination; and 3)all claimed elements within the

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[21]See for example limitations of the specific command language, the coupling network, the columnar structure of the datasets, etc.

alleged combination. The Examiner has failed to make any of these three required showings. Therefore, because the Examiner has not made a *prima facie* case of obviousness, Applicants need not and indeed cannot offer appropriate evidence and argument in rebuttal.

As to the requirement to show motivation, the Examiner concludes:

> It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Goodwin's system by using the Mapper data base management system in order to have data base management system in an efficient, multi-user environment and to enable the user to utilize either access technique, the logic for each individual assistance function for the stated purpose has been well known in the art as evidenced by teaching of Spellman (col. 2, line 28-38)

Though the Examiner has carefully parsed Spellman, column 2, lines 28-38, to support his conclusion, he has failed to inform the reader that this citation has nothing to do with either MAPPER or the system disclosed by Goodwin.

Furthermore, as explained above, Goodwin has no data base management system at all. Furthermore, the Examiner does not even allege that it does. Therefore, there can be no motivation *per se* for improve the efficiency of Goodwin's non-existent data base management system by making it the claimed MAPPER system.

The second showing required of the Examiner is to show reasonable likelihood of success. In an apparent attempt to do so, the Examiner incoherently states without support in the record:

> Further, Mapper in Spellman is compatibilities (sic) with Goodwin et al. since (sic) Mapper system works in the

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object oriented language such as Goodwin et al' (sic) system.

This statement unsupported by the record. As a matter of fact, MAPPER does not work in the object oriented language alleged by the Examiner. Thus, the Examiner's attempts at making the first two required showings are based upon clearly erroneous findings of fact.

III.A.   Claim 14 is not obvious over Goodwin in view of Spellman.

Finally, the Examiner fails to show all of the claimed elements. Claim 14 depends from claim 13 and is further limited by "wherein said storing means further comprises MAPPER data base management system". The claimed "storing means" (of claim 11) must be "responsively coupled to said requesting means via said publically accessible digital data communication network". As explained above, Goodwin discloses only a single computer system. Therefore, it cannot have the claimed coupling network. Furthermore, the claimed offering means must perform bulk dataset updates which is not shown in either of the references of the alleged combination. The rejection of claim 14 should be reversed for failure of the Examiner to make any of the three showings required by MPEP 2143.

III.B.   Claim 15 is not obvious over Goodwin in view of Spellman.

The Examiner fails to show all of the claimed elements within claim 15. The claimed "requesting means" must be "responsively coupled" to said offering means "via said publically accessible digital data communication network". Goodwin discloses a single computer system. Therefore, the alleged combination cannot meet the limitations of claim 15. The rejection of claim 15 is respectfully traversed for failure of the Examiner to make any of the three showings required by MPEP 2143.
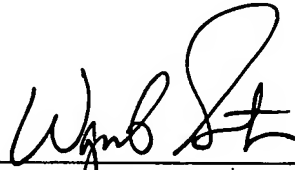
CONCLUSION

Having thus reviewed the rejections of claims 1-21, being all pending claims, it seems abundantly clear that the limitations of these claims are not unpatentable in view of the prior art of record. Thus, the rejection of these claims should be reversed as being based upon clearly erroneous fact findings and errors of law.

Respectfully submitted

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By their attorney,

Date <u>December *12*, 2008</u>

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CLAIMS APPENDIX

1. An apparatus for processing data upon request comprising:

    a. a legacy data base management system having a first command language and having a plurality of datasets;

    b. a user terminal which generates a request in a standardized command language for comparing some of said plurality of datasets within said legacy data base;

    c. a facility located within said data base management system which parses said request in said standardized command language into a corresponding request in said first command language; and

    d. a result produced by said legacy data base management system indicative of honoring said corresponding request.

2. The apparatus of claim 1 wherein said request in said standardized command language further comprises a JavaScript object.

3. The apparatus of claim 2 wherein said result further comprises a JavaScript object.

4. The apparatus of claim 3 wherein said user session is responsively coupled to said data base management system via a publically accessible digital data communication network.

5. The apparatus of claim 4 wherein said data base management system further comprises a data base having a plurality of columns of data wherein each of said plurality of datasets corresponds to a different one of said plurality of columns of data.

6. A method of comparing a plurality of datasets within the data base of a legacy data base management system comprising:
   a. generating a comparison request in a standardized command language;
   b. transferring said request to said legacy data base management system;
   c. converting said comparison request from said standardized command language into a legacy command language suitable for execution by said legacy data base management system;
   d. honoring said comparison request; and
   e. sending a result indicative of said honoring step.

7. A method according to claim 6 wherein said standardized command language further comprises a language which is capable of producing a JavaScript object.

8. A method according to claim 7 wherein said generating step is performed by a user terminal.

9. A method according to claim 8 wherein said result further comprises a JavaScript object.

10. A method according to claim 9 wherein said transferring step occurs via a publically accessible digital data communication network.

11. An apparatus for processing data upon request comprising:

a. storing means for storing a plurality of datasets within a legacy data base;

b. requesting means responsively coupled to said storing means for requesting a comparison of said plurality of datasets via a standardized command language;

c. converting means responsively coupled to said storing means for converting said standardized command language into a legacy command language suitable to access said legacy data base; and

d. preparing means responsively coupled to said storing means for preparing a comparison result.

12. An apparatus according to claim 11 wherein said standardized command language further comprises a language which is capable of describing a JavaScript object.

13. An apparatus according to claim 12 further comprising a publically accessible digital data communication network which couples said requesting means to said storing means.

14. An apparatus according to claim 13 wherein said storing means further comprises MAPPER data base management system.

15. An apparatus according to claim 14 wherein said requesting means further comprises an industry standard personal computer.

16. In a data processing system having a user session which generates a request in a standardized command language to compare a plurality of datasets responsively coupled to a legacy data base management system containing said plurality of datasets, the improvement comprising:

    a. a link responsively coupling said user session to said legacy data base management system;

    b. a facility which converts said request from said standardized command language into a legacy command language cognizable by said legacy data base management system; and

    b. a comparison result produced by said legacy data base management system from transfer to said user session.

17. The improvement according to claim 16 wherein said standardized command language further comprises a language which describes a JavaScript object.

18. The improvement according to claim 17 wherein said link further comprises a publically accessible digital data communication network.

19. The improvement according to claim 18 wherein said request further comprises a JavaScript object.

20. The improvement according to claim 19 wherein said result further comprises a JavaScript object.

21. An apparatus for accessing a database comprising:

    a. a legacy data base management system having a first command language and having a plurality of datasets;

    b. a user terminal which generates a request as a JavaScript standardized command language object for comparing some of said plurality of datasets within said legacy data base responsively coupled to said legacy data base management system via a publically accessible digital data communication network;

d. a facility which parses said request as said JavaScript standardized command language object into a corresponding request in said first command language;

e. a result produced by said legacy data base management system indicative of honoring said corresponding request converted by said facility to a JavaScript object; and

f. wherein said legacy data base management system further comprises a data base having a plurality of columns of data wherein each of said plurality of datasets corresponds to a different one of said plurality of columns of data.

EVIDENCE APPENDIX

There is no evidence or documents deemed appropriate to be included within this Appendix.

RELATED PROCEEDINGS APPENDIX

There are no decisions or other papers deemed appropriate to be included in this Appendix.